REMARKS

The currently pending claims are claims 1-4 and 17-23. Claim 1 has been amended to emphasize the powder form of the food product. Support for this amendment is in original claim 1 as filed. Claim 2 has been amended for the sake of accuracy and completeness of a Markush group. No new matter is added by the amendment. Reconsideration of this application, in view of the following remarks, is respectfully requested.

Claims 1-4 and 17-23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Rovedo et al. and Parducho et al. The Examiner contends that both abstracts disclose a combination of milk and sugar components. The Examiner believes that it would have been obvious to one skilled in the art to use these teachings to arrive at the presently claimed invention. The Examiner also relies on case law teachings which state that new recipes or formulas for cooking food are not inventive, and that the desired product is dictated by consumer preference.

The rejection is respectfully traversed, and reconsideration is respectfully requested.

One skilled in the art would not have been motivated to combine the teachings of these references to arrive at the presently claimed powder composition. Parducho teaches the effect of combining stabilizers with different milk types to produce a candied product. Parducho uses high molecular weight polysaccharide stabilizers as starting materials. Rovedo teaches the flow properties of milk, sucrose and sodium bicarbonate. In both references, the food compositions are in liquid form, not in powder form, as defined by the present claims.

In the presently claimed invention, milk is evaporated separately with 200g of sugar. Contrary to the teaching in Parducho, stabilizers are not an essential component of the invention. The present invention discloses as starting material a liquid cream of "dulce de leche" (having about 30% moisture) in order to obtain a finished product -- a milk caramel powder product having about 1% to about 7% humidity. It is clear that the starting material of the present invention is the final product obtained from Parducho. Therefore, Parducho cannot be deemed to suggest a product having 1-7% humidity as called for in the present claims.

Rovedo fails to provide any teaching with respect to obtaining a powder form product. This teaching is missing from Parducho. Rovedo merely reports the flow properties of confectionery and the effects of pH and temperature on its rheological characteristics. Rovedo does not suggest or disclose converting a milk caramel liquid into a powdered food product as called for in claim 1. Based on the teaching of the references, one skilled in the art would not be motivated to combine the teachings to start with a liquid cream product and achieve the presently claimed powder composition.

Contrary to the Examiner's statements, the benefits of the claimed milk caramel powder are not based on consumer preferences nor on consumer preference for cooking food or arriving at particular taste preferences. Instead, the product of the present claims provides a surprising new function in the food industry. The milk caramel powder food product of the present invention allows the food industry to obtain new products including new "dulce de leche" food coverings or new fillers for use with ice creams or cakes. These products can be only obtained from the milk caramel powder. This cannot be obtained from the typical liquid cream of "dulce de leche" nor from the combination of raw materials such as those disclosed by Parducho or Rovedo.

Furthermore, the low water activity (AW) of the milk caramel powder of the invention unexpectedly allows one to control the starting materials to achieve new food products such as cover toppings, fillers, spreading pastes and other products with different moisture depending on the industry needs. Additionally, a lower AW eases product preservation, preventing the proliferation of microorganisms, fungus and yeasts and reducing therefore the amount of preservatives to be used.

It is known to increase the thickness of typical liquid creamed "dulce de leche", however, the features of interest to one in the industry (thickness, water activity) cannot be attained from the prior art product. The milk caramel powder food product of the present claims, however, surprisingly allows one to obtain new pastry products with the desired water activity, thickness and additional properties that are needed in the food field. For example, the milk caramel powder food product could be used to make a dulce de leche food covering. This would not be

possible using the material disclosed by Parducho. If the starting material was not in powder form, such a food covering would not be attainable and would not achieve a low water activity value. For the reasons set forth above, it can be appreciated that the claimed invention provides an unexpected result rather than a desired product dictated by consumer preference.

In view of the foregoing it is respectfully submitted that the presently pending claims are in condition for allowance. Reconsideration of this application is respectfully requested and that all pending claims be allowed and the case passed to issue.

If there are any other issues remaining which the Examiner believes could be resolved through a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

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Respectfully submitted,

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